



## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

**[Docket No. USCG-2022-0576]**

### **Draft Guidance for Nationally Consistent Coastal Zone Area Contingency Plan**

### **Architecture**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of availability and request for comments.

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**SUMMARY:** The Coast Guard announces the availability, in the docket, of a draft guidance document intended to establish a new, nationally consistent architecture for coastal zone Area Contingency Plans (ACPs). ACPs are required by the Clean Water Act and demonstrate the planning for oil and hazardous substance incident response at the local level. ACPs for areas within the coastal zone are approved by the Coast Guard. To modernize coastal ACPs, improve usability and attain national consistency the Coast Guard is developing new policy pertaining to ACP architecture. This new, standardized construct will better enable industry plan writers of vessel and facility response plans with multiple, diverse operating areas to consistently align with Coast Guard approved ACPs. A more standardized approach will minimize confusion due to highly variable ACP structure and content and will also facilitate more efficient response, especially for large scale responses requiring mobilization of personnel and resources from outside the region. Additionally, adopting a nationally consistent architecture will facilitate the Coast Guard's development of more modern, app-based ACP products for end users.

**DATES:** Comments must be submitted to the online docket via <https://www.regulations.gov> on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2022-0576 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** For information about this document call or e-mail Jonathan Smith, Coast Guard; telephone 202-372-2675, e-mail [Jonathan.R.Smith@uscg.mil](mailto:Jonathan.R.Smith@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Comments**

We encourage you to submit comments (or related material) on the draft guidance document in the docket. We will consider all submissions and may adjust our final action based on your comments. The Coast Guard Office of Marine Environmental Response Policy will release A Marine Safety Information Bulletin (MSIB) containing the final product. When available, the MSIB will be posted here:

<https://homeport.uscg.mil/missions/environmental/hq-mer-msib>. If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using

<http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Documents mentioned in this notice as being available in the docket, and public comments, are in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. We review all comments received, but we may choose not to post off-topic, inappropriate, or duplicate comments that we receive. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

The USCG requests comments from all stakeholders who use or have a role in the development of ACPs, including but not limited to: federal agencies with a nexus to the National Response System; tribal representatives; State and local agencies (Local Emergency Planning Committees; emergency managers, response personnel; Oil Spill Removal Organizations and environmental consultants; Non-profit and voluntary organizations; Industry plan holders; and any other organizations active in area committee functions. Comments received will be considered in preparing final guidance document(s).

### **Background and Purpose**

ACPs are required by Title IV, Section 4202 of the Oil Pollution Act of 1990, which amends Subsection (j) of Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321 (j)), as amended by the Clean Water Act of 1977 (33 U.S.C. 1251 et. seq.) to address the development of a National Planning and Response System. ACPs are also written in conjunction with the National Oil and Hazardous Substance Pollution

Contingency Plan (NCP) (40 CFR part 300) and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.) as amended by the Superfund Amendments and Reauthorization Act of 1986. Under the NCP, the Coast Guard and Environmental Protection Agency (EPA) provide the leadership of the National Response Team (NRT), the Regional Response Teams (RRT) and local Area Committees to engage the National Response System to verify threats (spill potential), identify risks (resources that might be harmed in a spill), and establish the strategies necessary to prepare for and respond to a pollution incident or event.

The Coast Guard and EPA are responsible for organizing and overseeing the Area Committees and each Area Committee is responsible for developing the ACP for their area of responsibility. ACPs outline the plan for oil and hazardous substance incident response at the local level. Additionally, ACPs describe the strategy for the Federal On-Scene Coordinator (FOSC) to achieve a unified and coordinated response with federal, state, local, tribal, territorial, responsible party (RP), and other stakeholders. The predesignated FOSC has the legal responsibility to both plan for and respond to oil or hazardous substance spills in their area of responsibility. Pursuant to Executive Order 12777 (of October 22, 1991) the EPA provides the FOSC responsible for overseeing area contingency planning and response in the inland zone and the Coast Guard provides the FOSC for the coastal zone.

As per the NCP, the coastal zone is defined as *“all United States waters subject to the tide, United States waters of the Great Lakes, specified ports and harbors on inland rivers, waters of the contiguous zone, other waters of the of the high seas subjected to the NCP, and the land surface or land substrata, ground waters, and ambient air proximal to those waters.”* ACPs are an integral component of the National Response System, as outlined in the NCP, which is comprised of federal, state, and local responders and private sector partners. The NRS provides a framework for coordination

to respond effectively and efficiently to oil discharges; releases of hazardous substances, pollutants and contaminants; and radiological substances. As prescribed in the NCP, ACPs are part of a broader, layered system of plans designed to work in a synchronized manner. As required by the FWPCA, vessel and facility response plans must be consistent with the applicable ACPs for the areas in which they operate.

Please note that the proposed guidance is for a macro level ACP architecture only, and that the USCG recognizes that some degree of local variability is expected beneath the macro level elements. The USCG will continue to advance additional, more detailed policy guidance supporting this new ACP architecture.

This notice is issued under authority of 5 U.S.C. 552(a).

Dated: November 4, 2022.

**T.L. Wirth,**  
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Office of Marine Environmental Response Policy.

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